

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARIO CAVIN,

Petitioner,

Hon. Richard Alan Enslin

v.

Case No. 1:05-CV-140

HUGH WOLFENBARGER,

Respondent.

ORDER

This matter is before the Court on Petitioner's Motion to Stay Order of Restitution. (Dkt. #7). As discussed below, Petitioner's motion is **denied**.

Petitioner asserts that as part of his sentence he was ordered to pay restitution in the amount of \$7,000. As part of his petition for writ of habeas corpus, Petitioner has challenged the imposition of restitution. Petitioner now moves the Court to enter an order staying the imposition of this portion of his sentence pending resolution of his petition for writ of habeas corpus.

The Court is unable to locate authority addressing this precise issue. However, the Court finds Petitioner's request to be analogous to a request for bail pending resolution of a petition for writ of habeas corpus. In the latter circumstance, relief is permitted only if the petitioner demonstrates "a substantial claim of law based on the facts surrounding the petition" as well as the existence of some circumstance making the request for relief "exceptional and deserving of special treatment in the interests of justice." *Dotson v. Clark*, 900 F.2d 77, 79 (6th Cir. 1990); *see also, Lordi v. Ishee*, 2001 WL 1556590 at *1 (6th Cir. Dec. 4, 2001) (same).

Petitioner has failed to demonstrate that his claim that restitution was improperly imposed is “substantial” or otherwise meritorious. The Court, therefore, denies Petitioner’s motion to stay restitution in this matter.

IT IS SO ORDERED.

DATED in Kalamazoo, MI:
June 9, 2005

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
UNITED STATES DISTRICT JUDGE